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EXAMINER

BROWN, T

ART UNIT

PAPER NUMBER

2601

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DATE MAILED:

05/12/92

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined

Responsive to communication filed on _____

This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 6 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892. (2 sheets)
2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449.
4. Notice of Informal Patent Application, Form PTO-152.
5. Information on How to Effect Drawing Changes, PTO-1474.
6. _____

Part II SUMMARY OF ACTION

1. Claims 29-60 are pending in the application.

2. Of the above, claims _____ are withdrawn from consideration.

3. Claims _____ have been cancelled.

4. Claims 47-51 are allowed.

5. Claims _____ are rejected.

6. Claims _____ are objected to.

7. This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. Formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are acceptable. not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed on _____, has been approved. disapproved (see explanation).

12. Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has been received not been received. been filed in parent application, serial no. _____; filed on _____

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

EXAMINER'S ACTION

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1. The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action of one or more of the predecessor applications.

2. In view of additional subject matter obviously claimed in this application, a supplemental declaration is required. See MPEP Section 201.06(a), page 200-8, first column, sixth paragraph.

3. The introductory specification paragraph added by the (first) preliminary amendment of December 3, 1991 (Paper No. 3) contains two obvious errors. The present application is a division rather than a "continuation" of parent application S.N. 640,337, and the stated patent number of predecessor application S.N. 194,258 obviously is incorrect. Appropriate corrections are required.

4. The disclosure is objectionable for failing to provide an adequate written description and enabling disclosure of various aspects of several of the present claims, as will be detailed below.

Claim 42 speaks (at lines 5-7) of "provision of] called terminal digital signals to a called station representative of the called station"(and note similarly claim 46, lines 5-7), which is found to be inaccurate. These passages apparently were presumably intended to refer to the "DNIS" type service referred to in the text. As applicant's "interface system" is described, the "processing system" (e.g., P1) thereof may receive such (DNIS) signals from the facility C, obviously via an ACD AC1. However, there obviously is no "called station" per se in the described

system which actually receives the DNIS signals. Furthermore, claim 42, in referring (at page 9 of the amendment, lines 6-8 thereof) to coupling of a "specific caller" to the "function unit means", implies that the caller must somehow be identified before the coupling, and such identification obviously cannot be based on the DNIS signals, which as is well known do not identify a caller.

Claim 42 also refers to an "audio broadcast" with which a "format" is said to be associated (see lines 8-10 of the claim). The term "audio broadcast" is not found in the text, nor is it clear to what applicant intended that term to refer. The text does refer several times to a television "broadcast", but not to an "audio broadcast". The subject term obviously either should be modified, or appropriate correlation with the text established.

Lines 13-15 of claim 59 and lines 14-16 of claim 60 refer to "actuating said terminals as to provide vocal operating instructions to a specific one of said individual callers" (emphasis added), which is found inaccurate, since as the system is described in the text, there is found no provision for plural terminals to be "actuated" to prompt only one caller.

Claim 59 refers, at lines 24-25, to "the terminals used by said one of said callers" (emphasis added), which also is inaccurate, since there is found no description or indicated intent for one caller to use plural terminals.

5. Claims 42-46, 59 and 60 are rejected under 35 U.S.C. 112, first paragraph, for the reasons set forth in the objection to the specification.

6. Claims 29-41, 46 and 52-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to

particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack antecedent basis: "said record structure" (claim 29, line 25; claim 38, lines 25-26; claim 39, lines 24-25; and claim 52, lines 23-24); "said memory" (claim 41, lines 3-4); "the calling number" (claim 55, lines 8-9); and "said specific caller" (claim 57, line 4).

In claim 46, it is unclear whether the "various formats" of lines 10-11 are intended to be the same as or different from those recited at line 9.

In claim 39, line 24 and claim 52, line 23, it is unclear to what "communication" the "communication data" is intended to relate.

At claim 57, line 3, "specific of said callers" is unclear. Perhaps applicant meant instead ---a specific one of said callers---, in view of "said specific caller" in line 4, which as noted above presently lacks antecedence.

7. Indefinite claims cannot be specifically compared to the prior art. However, assuming that applicant can and would correct the noted indefiniteness in view of the examiner's comments thereon above, at least claims 39-41, 52 and 55-58, to the extent understood, apparently were intended to be drawn to subject matter that is seen to be within the scope of the prior art.

Note for example, with respect to claims 39-41 and 52, the patent of Britton et al., clearly has "interface structure" selectively coupled to a "communication facility" (101) to interface "terminal apparatus" (110, 111). Clearly outlined in

this system is a "voice generator structure" (see for example column 3, lines 50-55), for providing prompts to callers for input of data which the system processes. Also clearly inherent is a "record means" for initiating a file and storing digital data relating to callers, in view of the ordering operations described. Finally, as for applicant's claimed "abort means" for passing communication data from the "record [means]" to a manual terminal, and for coupling the manual terminal to a caller, such clearly is provided in Britton et al.: see therein the paragraph bridging columns 3-4, and column 7, lines 35-50.

As for the "automatic call distributor" which claim 40 places in the "interface structure", the claim does not indicate any connections or purpose in the context for that; however, as was well known in the art, ACDs routinely are used in conjunction with far as part of PBXs such as shown by Britton et al. And as for the buffer alluded to in claim 41, that would have been considered inherent in Britton et al.

Applicant's claim 52 obviously is even broader than claim 39, differing therefrom only in that the latter specifies that the "digital data relating to said callers" is "provided from said digital input means" (see lines 20-22 thereof), whereas claim 52 does not indicate the source. The broad terms of claim 52, to the extent understood, obviously are similarly readable on the Britton et al. patent.

It is noted that applicant's claims 39 and 52 obviously are related to the subject matter of claim 3 of applicant's patent number 4,845,739, which was disclaimed in the Official Gazette of June 4, 1991. It is suggested that applicant should submit for the examiner's consideration any reference or references whose

consideration resulted in the disclaimer, since they might be relevant to the related claims of this application.

Applicant's claims 55-58, to the extent understood, are seen to be within the scope of a patent of Riskin (of record in a predecessor application). Riskin clearly teaches receiving and processing caller terminal digital data obtained via ANI capability of a communication facility: see therein column 5, lines 20-48. Further, clearly inherent in the Riskin system are "analysis structure for processing said caller data", and "control structure for controlling said analysis structure in accordance with said terminal digital data", in view of column 6, lines 11-39 of the patent, which describe provision to the caller of "nearest dealer" information responsive to the caller's input data, correlated with data obtained based on the caller's automatically obtained number.

Also apparently pertinent to applicant's claim 55 is the patent of DeFrancesco et al. (also of record in predecessor applications), wherein see column 4. This patent obviously has "analysis structure for processing...caller data signals", and "control structure for controlling said analysis structure in accordance with [the calling] terminal digital data" which is "indicative of the calling number". In this patent, the calling terminal digital data is obtained by caller input thereof rather than via the "communication facility" ANI capability; however, it clearly was well known in the art that the caller's number could be obtained automatically from the available ANI "capability" as alternative to manual input by a caller, as shown for example by Riskin.

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8. Claims 47-51 are allowed, conditioned on cancellation of any conflicting claims of the grandparent application S.N. 335,923 (see comments in Section 11 below).

9. Claims 29-38, 53, 54 and 60 apparently would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, and assuming that conflicting claims of the predecessor application '923 are canceled (see Section 11 below).

10. Claims 42-46 and 59 cannot be meaningfully compared to the prior art in view of the noted inaccuracies and/or indefiniteness thereof, which however should not be taken as an indication of potential for allowability.

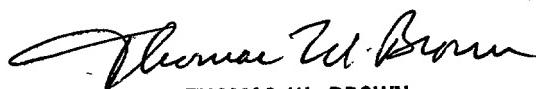
11. The examiner notes applicant's statement of intent to cancel corresponding claims in the grandparent application S.N. 335,923 "at the appropriate time". In the latter case, applicant filed an amendment after final (Paper No. 23 thereof) which in fact does request cancellation of the corresponding claims. The examiner has indicated in the '923 case that the latter amendment will be entered upon submission of applicant's brief therein. However, until the amendment is entered, there remains a potential for conflict between the claims of the two cases. As long as the subject claims remain in the '923 case, the claims cannot be allowed in this one.

12. Applicant's terminal disclaimer submitted March 2, 1992 (Paper No. 8) is acknowledged, and it will be appropriately processed. With expected acceptance of the disclaimer, potential double patenting rejections should be obviated.

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13. Any inquiry concerning this communication or earlier communications by the examiner should be directed to Examiner Thomas W. Brown, whose telephone number is (703)308-4964. Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist whose telephone number is (703)308-0962.



THOMAS W. BROWN
PRIMARY EXAMINER
GROUP 261

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5/1/92